

the Puyallup Tribe of Indians and the State of Washington, which was executed on November 16, 2004.

This Amendment authorizes the Tribe to conduct Class III gaming activities on fee land (the Fife Property) within the Tribe's reservation boundaries.

Dated: December 22, 2004.

Michael D. Olsen,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 04-28506 Filed 12-28-04; 8:45 am]

BILLING CODE 4310-4N-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under Comprehensive Environmental Response, Compensation and Liability Act

Under 28 CFR 50.7, notice is hereby given that on December 14, 2004, a proposed Consent Decree in *United States v. Alcan Aluminum Corp.*, Civil No. 04-1435, was lodged with the United States District Court for the Northern District of New York.

This action concerns the Tri Cities Barrel Superfund Site (Site), which is located in Fenton, New York. In this action, the United States asserted claims against Alcan Aluminum Corp: (1) under section 106(b)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9606(b)(1), for civil penalties for Alcan's failure to comply with an administrative order issued by the U.S. Environmental Protection Agency (EPA) which required Alcan to participate and cooperate with a group of parties who are performing the remedy for the Site under a Remedial Design/Remedial Action consent decree; and (2) under section 107(a) of CERCLA, 42 U.S.C. 9607(a), for recovery of response costs incurred regarding the Site. The proposed consent decree embodies an agreement with Alcan to pay \$600,000 of EPA's past response costs, to pay 80% of all future response costs, up to a \$800,000 cap, and to pay a \$360,000 civil penalty. The decree provides Alcan with a covenant not to sue under sections 106(b)(1) and 107(a) of CERCLA.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC

2004-7611, and should refer to *United States v. Alcan Aluminum Corp.*, D.J. No. 90-11-3-1514/2.

The Consent Decree may be examined at the Office of the United States Attorney, 445 Broadway, Albany, NY 12207, and at the Region II Office of the U.S. Environmental Protection Agency, Region II Records Center, 290 Broadway, 17th Floor, New York, NY 10007-1866. During the public comment period, the Consent Decree also may be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/open.html>. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$5.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Catherine R. McCabe,

Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04-28536 Filed 12-28-04; 8:45 am]

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DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Macaulay*, Case No. 3:04-23209, was lodged with the United States District Court for the District of South Carolina on December 8, 2004. This proposed Consent Decree concerns a complaint filed by the United States against the Defendants pursuant to section 301(a) of the Clean Water Act ("CWA"), 33 U.S.C. 1311(a), to obtain injunctive relief from and impose civil penalties against the Defendants for filling wetlands without a permit.

The proposed Consent Decree requires the defendants to pay a civil penalty and restore the impacted wetland to its natural grade and contour. The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to Emery Clark, Assistant United States Attorney, United States Attorney's Office, Wachovia Building, Suite 500, 1441 Main Street, Columbia, South

Carolina 29201 and refer to *United States v. Macaulay*, Case No. 3:04-23209.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of South Carolina, 901 Richland Lane, Columbia, South Carolina.

In addition the proposed Consent Decree may be viewed on the World Wide Web at <http://www.usdoj.gov/enrd/open.html>.

Stephen Samuels,

Assistant Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 04-28537 Filed 12-28-04; 8:45 am]

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

Fee Adjustments for Testing, Evaluation, and Approval of Mining Products

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of fee adjustments.

SUMMARY: This notice revises our [MSHA Approval and Certification Center (A&CC)] user fees. Fees compensate us for the costs that we incur for testing, evaluating, and approving certain products for use in underground mines. We based the 2005 fees on our actual expenses for fiscal year 2004. The fees reflect changes both in our approval processing operations and in our costs to process approval actions.

DATES: This fee schedule is effective from January 1, 2005, through December 31, 2005.

FOR FURTHER INFORMATION CONTACT: Steven J. Luzik, Chief, Approval and Certification Center (A&CC), 304-547-2029 or 304-547-0400.

SUPPLEMENTARY INFORMATION:

Background

On May 8, 1987 (52 FR 17506), we published a final rule, 30 CFR part 5—Fees for Testing, Evaluation, and Approval of Mining Products. The rule established specific procedures for calculating, administering, and revising user fees. We have revised our fee schedule for 2004 in accordance with the procedures of that rule and include this new fee schedule below. For approval applications postmarked before January 1, 2005, we will continue to calculate fees under the previous (2004) fee schedule, published on December 30, 2003.

Fee Computation

In general, we computed the 2005 fees based on fiscal year 2004 data. We calculated a weighted-average, direct cost for all the services that we provided during fiscal year 2004 in the processing

of requests for testing, evaluation, and approval of certain products for use in underground mines. From this cost, we calculated a single hourly rate to apply uniformly across all of the product approval categories during 2005.

Dated: December 22, 2004.

David G. Dye,

Acting Assistant Secretary for Mine Safety and Health.

**FEE SCHEDULE EFFECTIVE JANUARY 1, 2005
(BASED ON FY 2004 DATA)**

ACTION TITLE	HOURLY RATE (\$)
Fees for Testing, Evaluation, and Approval of all Mining Products ¹	66
Retesting for Approval as a Result of Post-Approval Product Audit ²	
30 CFR PART 15—EXPLOSIVES TESTING	
Permissibility Tests for Explosives:	
Weigh-in	462
Physical Exam: First size	325
Chemical Analysis	1,977
Air Gap—Minimum Product Firing Temperature	460
Air Gap—Room Temperature	352
Pendulum Friction Test	163
Detonation Rate	352
Gallery Test 7	7,436
Gallery Test 8	5,533
Toxic Gases (Large Chamber)	805
Permissibility Tests for Sheathed Explosives:	
Physical Examination	128
Chemical Analysis	1,044
Gallery Test 9	1,944
Gallery Test 10	1,944
Gallery Test 11	1,944
Gallery Test 12	1,944
Drop Test	648
Temperature Effects/Detonation	672
Toxic Gases	580

¹ Full approval fee consists of evaluation cost plus applicable test costs.

² Fee based upon the approval schedule in effect at the time of retest.

Note: When the nature of the product requires that we test and evaluate it at a location other than our premises, you must reimburse us for the traveling, subsistence, and incidental expenses of our representative in accordance with standardized government travel regulations. This reimbursement is in addition to the fees charged for evaluation and testing.

[FR Doc. 04-28452 Filed 12-28-04; 8:45 am]

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. St. Lawrence Zinc Company

[Docket No. M-2004-010-M]

St. Lawrence Zinc Company, P.O. Box 226, Hailesboro, New York 13645 has

filed a petition to modify the application of 30 CFR 57.14106 (Falling object protection) to its No. 4 Mine (MSHA I.D. No. 30-01185) located in St. Lawrence County, New York. The petitioner proposes to use low profile mini-jumbos and two (2) yard haul dumps without canopies in new mining areas with low height stopes in the No. 4 Mine. The petitioner states that ore drifts of nine (9) feet high and eight (8) feet wide will be maintained in the new mining areas, and the ore veins plunge approximately 25 degrees, thereby reducing the height of the stope (shanty back strike drifts). The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Cumberland Coal Resources, LP

[Docket No. M-2004-052-C]

Cumberland Coal Resources, LP, Three Gateway Center, 401 Liberty Avenue, Suite 1340, Pittsburgh, Pennsylvania 15222 has filed a petition to modify the application of 30 CFR

75.364(b)(1) (Weekly examination) to its Cumberland Mine (I.D. No. 36-05018) located in Greene County, Pennsylvania. The petitioner requests a modification of the existing standard to permit the use of air monitoring stations at a sump in an intake airway in lieu of traveling the entry in its entirety. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via Federal eRulemaking Portal: <http://www.regulations.gov>; E-mail: Comments@MSHA.gov; Fax: (202) 693-9441; or Regular Mail/Hand Delivery/Courier: Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209. All comments must be postmarked or received in that office on or before January 28, 2005. Copies of these